

**SENATE SUBSTITUTE FOR  
HOUSE BILL NO. 4508**

A bill to amend 1956 PA 218, entitled "The insurance code of 1956," by amending sections 1202, 4151, 4153, 4155, 4158, 4159, 4160, 4165, 5228, 5230, and 5245 (MCL 500.1202, 500.4151, 500.4153, 500.4155, 500.4158, 500.4159, 500.4160, 500.4165, 500.5228, 500.5230, and 500.5245), section 1202 as amended by 2016 PA 114, sections 4151, 4153, 4155, and 4165 as amended and sections 4158, 4159, and 4160 as added by 2012 PA 544, section 5228 as amended by 1994 PA 226, and section 5245 as amended by 2006 PA 290, and by adding chapter 12b and section 4166.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1202. (1) This chapter does not require an insurer to  
2 obtain an insurance producer license. As used in this section, the



1 term "insurer" does not include an insurer's officers, directors,  
2 employees, subsidiaries, or affiliates.

3 (2) A license as an insurance producer is not required of any  
4 of the following:

5 (a) An officer, director, or employee of an insurer or of an  
6 insurance producer, if the officer, director, or employee does not  
7 receive any commission on policies written or sold to insure risks  
8 residing, located, or to be performed in this state and meets 1 or  
9 more of the following:

10 (i) The officer's, director's, or employee's activities are  
11 executive, administrative, managerial, clerical, or a combination  
12 of these, and are only indirectly related to the sale,  
13 solicitation, or negotiation of insurance.

14 (ii) The officer's, director's, or employee's function relates  
15 to underwriting, loss control, inspection, or the processing,  
16 adjusting, investigating, or settling of a claim on a contract of  
17 insurance.

18 (iii) The officer, director, or employee is acting in the  
19 capacity of a special agent or agency supervisor assisting  
20 insurance producers if the person's activities are limited to  
21 providing technical advice and assistance to licensed insurance  
22 producers and do not include the sale, solicitation, or negotiation  
23 of insurance.

24 (b) A person who performs and receives no commission for any  
25 of the following services:

26 (i) Securing and furnishing information for the purpose of  
27 group life insurance, group property and casualty insurance, group  
28 annuities, or group or blanket accident and health insurance.

29 (ii) Securing and furnishing information for the purpose of



1 enrolling individuals under plans, issuing certificates under  
2 plans, or otherwise assisting in administering plans.

3 (iii) Performing administrative services related to mass  
4 marketed property and casualty insurance.

5 (c) An employer or association or its officers, directors,  
6 employees, or the trustees of an employee trust plan, to the extent  
7 that the employers, officers, employees, directors, or trustees are  
8 engaged in the administration or operation of a program of employee  
9 benefits for the employer's or association's own employees or the  
10 employees of its subsidiaries or affiliates, which program involves  
11 the use of insurance issued by an insurer, if the employers,  
12 associations, officers, directors, employees, or trustees are not  
13 in any manner compensated, directly or indirectly, by the company  
14 issuing the contracts.

15 (d) Employees of insurers or organizations employed by  
16 insurers who are engaging in the inspection, rating, or  
17 classification of risks, or in the supervision of the training of  
18 insurance producers and who are not individually engaged in the  
19 sale, solicitation, or negotiation of insurance.

20 (e) A person whose activities in this state are limited to  
21 advertising without the intent to solicit insurance in this state  
22 through communications in printed publications or other forms of  
23 electronic mass media, the distribution of which is not limited to  
24 residents of this state, if the person does not sell, solicit, or  
25 negotiate insurance that would insure risks residing, located, or  
26 to be performed in this state.

27 (f) A person who is not a resident of this state who sells,  
28 solicits, or negotiates a contract of insurance for commercial  
29 property and casualty risks to an insured with risks located in



1 more than 1 state insured under that contract, if the person is  
2 otherwise licensed as an insurance producer to sell, solicit, or  
3 negotiate that insurance in the state where the insured maintains  
4 its principal place of business and the contract of insurance  
5 insures risks located in that state.

6 (g) A salaried full-time employee who counsels or advises his  
7 or her employer concerning the insurance interests of the employer  
8 or of the subsidiaries or business affiliates of the employer, if  
9 the employee does not sell or solicit insurance or receive a  
10 commission.

11 (h) A person whose only sale of insurance is for travel or  
12 auto-related insurance sold in connection with and incidental to  
13 the rental of a motor vehicle under a rental agreement for a period  
14 not to exceed 90 days.

15 (i) A person whose only sale of insurance is for portable  
16 electronics insurance sold in connection with and incidental to the  
17 sale of a portable electronic device if written disclosure material  
18 is provided to the customer at the time of solicitation and the  
19 written material includes all of the following:

20 (i) A disclosure that portable electronics insurance may  
21 duplicate coverage already provided by the customer's homeowners,  
22 renters, or other insurance policies.

23 (ii) A statement that the enrollment by the customer in a  
24 portable electronics insurance program is not required to purchase  
25 or lease a portable electronic device or services for the device.

26 (iii) A summary of the material terms of the portable  
27 electronics insurance coverage, including all of the following:

28 (A) The identity of the insurer.

29 (B) The amount of any applicable deductible and how it is to



1 be paid.

2 (C) The benefits of the coverage.

3 (D) Key terms and conditions of the coverage, such as whether  
4 the portable electronics may be repaired or replaced with a similar  
5 make and model or reconditioned or nonoriginal manufacturer parts  
6 or equipment.

7 (iv) A summary of the process for filing a claim, including a  
8 description of how to return a portable electronic device and the  
9 maximum fee applicable if the customer fails to comply with  
10 equipment return requirements.

11 (v) A statement that the customer may cancel enrollment for  
12 coverage under a portable electronics insurance policy at any time  
13 and that the person paying the premium will receive a refund of or  
14 credit for any unearned premium.

15 (j) A person whose only sale of insurance is for travel  
16 insurance sold in conjunction with and incidental to planned  
17 travel.

18 (k) A person whose only sale of insurance is stored property  
19 insurance sold in connection with and incidental to the rental of  
20 storage space in a self-service storage facility under a rental  
21 agreement for a period not to exceed 1 year if written disclosure  
22 material is provided to the customer at the time of solicitation  
23 and the written material includes all of the following:

24 (i) A disclosure that the stored property insurance may  
25 duplicate coverage already provided by the customer's homeowners,  
26 renters, or other insurance policies.

27 (ii) A summary of the material terms of the stored property  
28 insurance coverage, including all of the following:

29 (A) The identity of the insurer.



1 (B) The benefits of the coverage.

2 (C) The key terms and conditions of the coverage.

3 (iii) A summary of the process for filing a claim.

4 (3) As used in this section:

5 (a) "Motor vehicle" means a motorized vehicle designed for  
6 transporting passengers or goods.

7 (b) "Self-service storage facility" means that term as defined  
8 in section 2 of the self-service storage facility act, 1985 PA 148,  
9 MCL 570.522.

10 (c) "Stored property insurance" means insurance that provides  
11 coverage for the loss of, or damage to, tangible personal property  
12 with an insured value not exceeding \$10,000.00 contained in a  
13 storage space located on a self-service storage facility or in  
14 transit during the term of a self-service storage facility rental  
15 agreement and that is provided under a group or master policy  
16 issued to a self-service storage facility for the provision of  
17 insurance to its customers.

18 (d) "Travel insurance" means, **subject to subdivision (e)**, a  
19 limited lines insurance coverage under section ~~1201(i)~~**1201(k)** for  
20 personal risk incident to planned travel, including 1 or more of  
21 the following:

22 (i) Interruption or cancellation of a trip or event.

23 (ii) Loss of baggage or personal effects.

24 (iii) Damages to accommodations or rental vehicles.

25 (iv) Sickness, accident, disability, or death occurring during  
26 travel.

27 (v) **Emergency evacuation.**

28 (vi) **Repatriation of remains.**

29 (vii) **Any other contractual obligations to indemnify or pay a**



1 specified amount to the traveler on determinable contingencies  
2 related to travel as approved by the director.

3 (e) ~~Travel insurance~~ "Travel insurance" does not include ~~major~~  
4 either of the following:

5 (i) Major medical plans, which provide comprehensive medical  
6 protection for travelers with trips lasting longer than 6 months,  
7 ~~or longer,~~ including, for example, those working or residing  
8 overseas as an expatriate, or military personnel being deployed.

9 (ii) A product that requires a specific insurance producer's  
10 license.

11 (iii) A prearranged funeral agreement by a funeral service  
12 provider.

### 13 CHAPTER 12B

#### 14 TRAVEL INSURANCE

15 Sec. 1281. This chapter applies to travel insurance that  
16 covers a resident of this state and is sold, solicited, negotiated,  
17 or offered in this state and for which policies and certificates  
18 are delivered or issued for delivery in this state. Except as  
19 otherwise provided in this chapter, this chapter does not apply to  
20 cancellation fee waivers and travel assistance services.

21 Sec. 1283. As used in this chapter:

22 (a) "Aggregator site" means a website that provides access to  
23 information regarding insurance products from more than 1 insurer,  
24 including product and insurer information, for use in comparison  
25 shopping.

26 (b) "Blanket travel insurance" means a policy of travel  
27 insurance issued to any eligible group providing coverage for  
28 specific classes of persons defined in the policy with coverage  
29 provided to all members of the eligible group without a separate



1 charge to individual members of the eligible group.

2 (c) "Cancellation fee waiver" means a contractual agreement  
3 between a supplier of travel services and its customer to waive  
4 some or all of the nonrefundable cancellation fee provisions of the  
5 supplier's underlying travel contract with or without regard to the  
6 reason for the cancellation or form of reimbursement. A  
7 cancellation fee waiver is not insurance.

8 (d) "Eligible group" means 2 or more persons that are engaged  
9 in a common enterprise, or have an economic, educational, or social  
10 affinity or relationship, including, but not limited to, any of the  
11 following:

12 (i) Persons engaged in the business of providing travel or  
13 travel services, including, but not limited to, tour operators,  
14 lodging providers, vacation property owners, hotels and resorts,  
15 travel clubs, travel agencies, property managers, cultural exchange  
16 programs, and common carriers or the operators, owners, or lessors  
17 of a means of transportation of passengers, including, but not  
18 limited to, airlines, cruise lines, railroads, steamship companies,  
19 and public bus carriers, in which, with regard to any particular  
20 travel or type of travel or travelers, all members or customers of  
21 the group must have a common exposure to risk attendant to the  
22 travel.

23 (ii) Colleges, schools, or other institutions of learning  
24 covering students, teachers or employees, or volunteers.

25 (iii) Employers covering a group of employees, volunteers,  
26 contractors, board of directors, dependents, or guests.

27 (iv) Sports teams, camps, or sponsors of sports teams or camps  
28 covering participants, members, campers, employees, officials,  
29 supervisors, or volunteers.



1 (v) Religious, charitable, recreational, educational, or civic  
2 organizations or branches of religious, charitable, recreational,  
3 educational, or civic organizations covering any group of members,  
4 participants, or volunteers.

5 (vi) Financial institutions or financial institution vendors,  
6 or parent holding company, trustee, or agent of or designated by 1  
7 or more financial institutions or financial institution vendors,  
8 including account holders, credit card holders, debtors,  
9 guarantors, or purchasers.

10 (vii) Incorporated or unincorporated associations, including  
11 labor unions, having a common interest, constitution, and bylaws,  
12 and organized and maintained in good faith for purposes other than  
13 obtaining insurance for members or participants of the association  
14 covering its members.

15 (viii) A trust or the trustees of a fund established, created,  
16 or maintained for the benefit of and covering members, employees,  
17 or customers, subject to the director's permitting the use of a  
18 trust and the premium tax under section 1285, of 1 or more  
19 associations described in subparagraph (vii).

20 (ix) Entertainment production companies covering a group of  
21 participants, volunteers, audience members, contestants, or  
22 workers.

23 (x) Volunteer fire departments, ambulance, rescue, police, or  
24 court, or any first aid, civil defense, or other volunteer groups.

25 (xi) Preschools, daycare institutions for children or adults,  
26 and senior citizen clubs.

27 (xii) Automobile or truck rental or leasing companies covering  
28 a group of individuals who may become renters, lessees, or



1 passengers defined by their travel status on the rented or leased  
2 vehicles. The common carrier, the operator, owner, or lessor of a  
3 means of transportation, or the automobile or truck rental or  
4 leasing company is the policyholder under a policy to which this  
5 subparagraph applies.

6 (xiii) Any other group as to which the director has determined  
7 that the members are engaged in a common enterprise, or have an  
8 economic, educational, or social affinity or relationship, and that  
9 issuance of the policy would not be contrary to the public  
10 interest.

11 (e) "Fulfillment materials" means documentation sent to the  
12 purchaser of a travel protection plan confirming the purchase and  
13 providing the travel protection plan's coverage and assistance  
14 details.

15 (f) "Group travel insurance" means travel insurance issued to  
16 any eligible group.

17 (g) "Primary certificate holder" means an individual who  
18 elects and purchases travel insurance under a group policy.

19 (h) "Primary policyholder" means an individual who elects and  
20 purchases individual travel insurance.

21 (i) "Travel assistance services" means noninsurance services  
22 for which the consumer is not indemnified based on a fortuitous  
23 event, and as to which providing the service does not result in the  
24 transfer or shifting of risk that would constitute the business of  
25 insurance. Travel assistance services include, but are not limited  
26 to, security advisories, destination information, vaccination and  
27 immunization information services, travel reservation services,  
28 entertainment, activity and event planning, translation assistance,  
29 emergency messaging, international legal and medical referrals,



1 medical case monitoring, coordination of transportation  
2 arrangements, emergency cash transfer assistance, medical  
3 prescription replacement assistance, passport and travel document  
4 replacement assistance, lost luggage assistance, concierge  
5 services, and any other service that is furnished in connection  
6 with planned travel. Travel assistance services are not insurance  
7 and not related to insurance.

8 (j) "Travel insurance" means that term as defined in section  
9 1202.

10 (k) "Travel protection plans" means plans that provide 1 or  
11 more of the following:

12 (i) Travel insurance.

13 (ii) Travel assistance services.

14 (iii) Cancellation fee waivers.

15 Sec. 1285. (1) A travel insurer shall pay a premium tax, as  
16 provided in section 635 of the income tax act of 1967, 1967 PA 281,  
17 MCL 206.635, on travel insurance premiums paid by any of the  
18 following:

19 (a) An individual primary policyholder who is a resident of  
20 this state.

21 (b) A primary certificate holder who is a resident of this  
22 state who elects coverage under a group travel insurance policy.

23 (c) A blanket travel insurance policyholder that is a resident  
24 in, or has its principal place of business or the principal place  
25 of business of an affiliate or subsidiary that has purchased  
26 blanket travel insurance in, this state for eligible blanket group  
27 members, subject to any apportionment rules that apply to the  
28 insurer across multiple taxing jurisdictions or that permits the  
29 insurer to allocate premium on an apportioned basis in a reasonable



1 and equitable manner in those jurisdictions.

2 (2) A travel insurer shall do both of the following:

3 (a) Document the state of residence or principal place of  
4 business of the policyholder or certificate holder, as required in  
5 subsection (1).

6 (b) Report as premium only the amount allocable to travel  
7 insurance and not any amounts received for travel assistance  
8 services or cancellation fee waivers.

9 Sec. 1287. Travel protection plans may be offered for 1 price  
10 for the combined features that the travel protection plan offers in  
11 this state if both of the following conditions are met:

12 (a) The travel protection plan clearly discloses to the  
13 consumer at or before the time of purchase that it includes travel  
14 insurance, travel assistance services, and cancellation fee  
15 waivers, as applicable, and provides information and an opportunity  
16 at or before the time of purchase for the consumer to obtain  
17 additional information regarding the features and pricing of each.

18 (b) The fulfillment materials do both of the following:

19 (i) Describe and delineate the travel insurance, travel  
20 assistance services, and cancellation fee waivers in the travel  
21 protection plan.

22 (ii) Include the travel insurance disclosures and the contact  
23 information for persons providing travel assistance services and  
24 cancellation fee waivers, as applicable.

25 Sec. 1289. (1) Except as otherwise provided in this section, a  
26 person that offers travel insurance to residents of this state is  
27 subject to chapter 20. If there is a conflict between this chapter  
28 and other provisions of this act regarding the sale and marketing  
29 of travel insurance and travel protection plans, this chapter



1 controls.

2 (2) Offering or selling a travel insurance policy that could  
3 never result in payment of any claims for an insured under the  
4 policy is an unfair trade practice under chapter 20.

5 (3) All documents provided to consumers before the purchase of  
6 travel insurance, including, but not limited to, sales materials,  
7 advertising materials, and marketing materials, must be consistent  
8 with the travel insurance policy, including, but not limited to,  
9 forms, endorsements, policies, rate filings, and certificates of  
10 insurance.

11 (4) For travel insurance policies or certificates that contain  
12 preexisting condition exclusions, information and an opportunity to  
13 learn more about the preexisting condition exclusions must be  
14 provided any time before the time of purchase, and in the  
15 coverage's fulfillment materials.

16 (5) The fulfillment materials must be provided to a  
17 policyholder or certificate holder as soon as practicable following  
18 the purchase of a travel protection plan. Unless the insured has  
19 either started a covered trip or filed a claim under the travel  
20 insurance coverage, a policyholder or certificate holder may cancel  
21 a policy or certificate for a full refund of the travel protection  
22 plan price from the date of purchase of the travel protection plan  
23 until at least either of the following:

24 (a) Fifteen days following the date of delivery of the travel  
25 protection plan's fulfillment materials by postal mail.

26 (b) Ten days following the date of delivery of the travel  
27 protection plan's fulfillment materials by means other than postal  
28 mail.

29 (6) A company shall disclose in the policy documentation and



1 fulfillment materials whether the travel insurance is primary or  
2 secondary to other applicable coverage.

3 (7) If travel insurance is marketed directly to a consumer  
4 through an insurer's website or by others through an aggregator  
5 site, it is not an unfair trade practice or other violation of law  
6 if both of the following apply:

7 (a) An accurate summary or short description of coverage is  
8 provided on the webpage.

9 (b) If the consumer has access to the full provisions of the  
10 policy through electronic means.

11 (8) A person that offers, solicits, or negotiates travel  
12 insurance or travel protection plans on an individual or group  
13 basis shall not use a negative option or opt-out, that would  
14 require a consumer to take an affirmative action to deselect  
15 coverage, such as unchecking a box on an electronic form when the  
16 consumer purchases a trip.

17 (9) If a consumer's destination jurisdiction requires  
18 insurance coverage, it is not an unfair trade practice to require  
19 that a consumer choose between any of the following options as a  
20 condition of purchasing a trip or travel package:

21 (a) Purchasing the coverage required by the destination  
22 jurisdiction through the travel insurance producer supplying the  
23 trip or travel package.

24 (b) Agreeing to obtain and provide proof of coverage that  
25 meets the destination jurisdiction's requirements before departure.

26 (10) As used in this section, "delivery" means handing  
27 fulfillment materials to the policyholder or certificate holder or  
28 sending fulfillment materials by postal mail or electronic means to  
29 the policyholder or certificate holder.



1           Sec. 1291. (1) Notwithstanding any other provision of this  
2 act, travel insurance is classified and must be filed for purposes  
3 of rates and forms under an inland marine line of insurance.  
4 However, travel insurance that provides coverage for sickness,  
5 accident, disability, or death occurring during travel, either  
6 exclusively or in conjunction with related coverages of emergency  
7 evacuation or repatriation of remains, or incidental limited  
8 property and casualty benefits such as baggage or trip  
9 cancellation, may be filed by an authorized insurer under either an  
10 accident and health line of insurance or an inland marine line of  
11 insurance.

12           (2) Travel insurance may be in the form of an individual,  
13 group, or blanket policy.

14           (3) Eligibility and underwriting standards for travel  
15 insurance may be developed and provided based on travel protection  
16 plans designed for individual or identified marketing or  
17 distribution channels, if those standards also meet this state's  
18 underwriting standards for inland marine.

19           Sec. 4151. As used in this chapter:

20           (a) "Annuity" means an annuity that is an insurance product  
21 under state law that is individually solicited, whether the product  
22 is classified as an individual or group annuity.

23           (b) "Cash compensation" means any discount, concession, fee,  
24 service fee, commission, sales charge, loan, override, or cash  
25 benefit received by a producer in connection with the  
26 recommendation or sale of an annuity from an insurer or  
27 intermediary, or directly from the consumer.

28           (c) "Consumer profile information" means information that is  
29 reasonably appropriate to determine whether a recommendation



1 addresses the consumer's financial situation, insurance needs, and  
2 financial objectives, including, at a minimum, the following:

3 (i) Age.

4 (ii) Annual income.

5 (iii) Financial situation and needs, including debts and other  
6 obligations.

7 (iv) Financial experience.

8 (v) Insurance needs.

9 (vi) Financial objectives.

10 (vii) Intended use of the annuity.

11 (viii) Financial time horizon.

12 (ix) Existing assets or financial products, including  
13 investment, annuity, and insurance holdings.

14 (x) Liquidity needs.

15 (xi) Liquid net worth.

16 (xii) Risk tolerance, including, but not limited to,  
17 willingness to accept nonguaranteed elements in the annuity.

18 (xiii) Financial resources used to fund the annuity.

19 (xiv) Tax status.

20 (d) ~~(b)~~—"Insurance producer" or "producer" means insurance  
21 producer as defined in section 1201 and includes a business entity  
22 described in section 1205(2) that is licensed as an insurance  
23 producer under this act. **Insurance producer or producer includes an**  
24 **insurer if no producer is involved.**

25 (e) "Intermediary" means an entity contracted directly with an  
26 insurer or with another entity contracted with an insurer to  
27 facilitate the sale of the insurer's annuities by producers.

28 (f) "Material conflict of interest" means a financial interest



1 of the producer in the sale of an annuity that a reasonable person  
2 would expect to influence the impartiality of a recommendation.  
3 Material conflict of interest does not include cash compensation or  
4 noncash compensation.

5 (g) "Noncash compensation" means a form of compensation that  
6 is not cash compensation, including, but not limited to, health  
7 insurance, office rent, office support, and retirement benefits.

8 (h) "Nonguaranteed elements" means the premiums, credited  
9 interest rates, including any bonus, benefits, values, dividends,  
10 noninterest based credits, charges, or elements of formulas used to  
11 determine any of these, that are subject to company discretion and  
12 are not guaranteed at issue. An element is considered nonguaranteed  
13 if any of the underlying nonguaranteed elements are used in its  
14 calculation.

15 (i) ~~(e)~~ "Recommendation" means advice provided by ~~an insurance~~  
16 ~~producer, or an insurer if no producer is involved,~~ **a producer** to  
17 an individual consumer that ~~results~~ **was intended to result or does**  
18 **result** in a purchase, exchange, or replacement of an annuity in  
19 accordance with that advice. **Recommendation does not include**  
20 **general communication to the public, generalized customer services**  
21 **assistance or administrative support, general educational**  
22 **information and tools, prospectuses, or other product and sales**  
23 **material.**

24 (j) ~~(d)~~ "Replacement" or "replace" means a transaction in  
25 which a new ~~policy or contract~~ **annuity** is to be purchased, and it  
26 is known or should be known to the proposing producer, or to the  
27 proposing insurer ~~if there is no~~ **whether or not a producer is**  
28 **involved**, that by reason of the transaction, an existing **annuity or**  
29 **other insurance** policy ~~or contract~~ has been or is to be ~~±~~ **any** of



1 the following:

2 (i) Lapsed, forfeited, surrendered or partially surrendered,  
3 assigned to the replacing insurer, or otherwise terminated.

4 (ii) Converted to reduced paid-up insurance, continued as  
5 extended term insurance, or otherwise reduced in value by the use  
6 of nonforfeiture benefits or other policy values.

7 (iii) Amended so as to effect either a reduction in benefits or  
8 in the term for which coverage would otherwise remain in force or  
9 for which benefits would be paid.

10 (iv) Reissued with any reduction in cash value.

11 (v) Used in a financed purchase.

12 ~~(c) "Suitability information" means information that is~~  
13 ~~reasonably appropriate to determine the suitability of a~~  
14 ~~recommendation, including all of the following:~~

15 ~~(i) Age.~~

16 ~~(ii) Annual income.~~

17 ~~(iii) Financial situation and needs, including the financial~~  
18 ~~resources used for the funding of the annuity.~~

19 ~~(iv) Financial experience.~~

20 ~~(v) Financial objectives.~~

21 ~~(vi) Intended use of the annuity.~~

22 ~~(vii) Financial time horizon.~~

23 ~~(viii) Existing assets, including investment and life insurance~~  
24 ~~holdings.~~

25 ~~(ix) Liquidity needs.~~

26 ~~(x) Liquid net worth.~~

27 ~~(xi) Risk tolerance.~~

28 ~~(xii) Tax status.~~



1           Sec. 4153. (1) This chapter applies to any **sale or**  
 2 recommendation ~~to purchase, exchange, or replace~~ **of** an annuity.  
 3 ~~made to a consumer by an insurance producer, or by an insurer if no~~  
 4 ~~producer is involved, that results in the purchase, exchange, or~~  
 5 ~~replacement recommended.~~

6           (2) ~~This~~ **Except as otherwise provided in this chapter, this**  
 7 chapter does not apply to any recommendation to purchase, exchange,  
 8 or replace an annuity involving any of the following:

9           (a) Direct response solicitations if there is no  
 10 recommendation based on information collected from the consumer.

11           (b) Contracts used to fund any of the following:

12           (i) An employee pension or welfare benefit plan that is covered  
 13 by the employee retirement income security act of 1974, Public Law  
 14 93-406.

15           (ii) A plan described by 26 USC 401(a), 26 USC 401(k), 26 USC  
 16 403(b), 26 USC 408(k), or 26 USC 408(p), if established or  
 17 maintained by an employer.

18           (iii) A governmental or church plan defined in 26 USC 414, a  
 19 government or church welfare benefit plan, or a deferred  
 20 compensation plan of a state or local government or tax exempt  
 21 organization under 26 USC 457.

22           (iv) A nonqualified deferred compensation arrangement  
 23 established or maintained by an employer or plan sponsor.

24           (v) Settlements of or assumptions of liabilities associated  
 25 with personal injury litigation or any dispute or claim resolution  
 26 process.

27           (vi) Formal prepaid funeral contracts.

28           (3) **This chapter does not require a producer to obtain any**  
 29 **license other than a producer license with the appropriate line of**



1 authority to sell, solicit, or negotiate insurance in this state,  
2 including, but not limited to, any securities license, to fulfill  
3 the duties and obligations contained under this chapter if the  
4 producer does not give advice or provide services that are  
5 otherwise subject to securities laws or engage in any other  
6 activity requiring other professional licenses.

7 (4) This chapter does not create or imply a private cause of  
8 action for a violation of this chapter or subject a producer to  
9 civil liability under the standard of care outlined in section 4155  
10 or under standards governing the conduct of a fiduciary or a  
11 fiduciary relationship.

12 Sec. 4155. (1) ~~In recommending to a consumer the purchase of~~  
13 ~~an annuity or the exchange of an annuity that results in another~~  
14 ~~insurance transaction or series of insurance transactions, the~~  
15 ~~insurance producer, or the insurer if no producer is involved,~~  
16 ~~shall have reasonable grounds for believing that the recommendation~~  
17 ~~is suitable for the consumer on the basis of the facts disclosed by~~  
18 ~~the consumer as to his or her investments and other insurance~~  
19 ~~products and as to his or her financial situation and needs,~~  
20 ~~including the consumer's suitability information, and that there is~~  
21 ~~a reasonable basis to believe all of the following:~~

22 (a) ~~The consumer has been reasonably informed of various~~  
23 ~~features of the annuity, such as the potential surrender period and~~  
24 ~~surrender charge, potential tax penalty if the consumer sells,~~  
25 ~~exchanges, surrenders, or annuitizes the annuity, mortality and~~  
26 ~~expense fees, investment advisory fees, potential charges for and~~  
27 ~~features of riders, limitations on interest returns, insurance and~~  
28 ~~investment components, and market risk.~~

29 (b) ~~The consumer would benefit from certain features of the~~



1 ~~annuity, such as tax-deferred growth, annuitization, or death or~~  
2 ~~living benefit.~~

3 ~~(c) The particular annuity as a whole, the underlying~~  
4 ~~subaccounts to which funds are allocated at the time of purchase or~~  
5 ~~exchange of the annuity, and riders and similar product~~  
6 ~~enhancements, if any, are suitable and, for an exchange or~~  
7 ~~replacement, the transaction as a whole is suitable, for the~~  
8 ~~particular consumer based on his or her suitability information.~~

9 ~~(d) For an exchange or replacement of an annuity, the exchange~~  
10 ~~or replacement is suitable including taking into consideration all~~  
11 ~~of the following:~~

12 ~~(i) Whether the consumer will incur a surrender charge, be~~  
13 ~~subject to the commencement of a new surrender period, lose~~  
14 ~~existing benefits such as death, living, or other contractual~~  
15 ~~benefits, or be subject to increased fees, investment advisory~~  
16 ~~fees, or charges for riders and similar product enhancements.~~

17 ~~(ii) Whether the consumer would benefit from product~~  
18 ~~enhancements and improvements.~~

19 ~~(iii) Whether the consumer has had another annuity exchange or~~  
20 ~~replacement and, in particular, an exchange or replacement within~~  
21 ~~the preceding 36 months.~~

22 ~~(2) Before the execution of a purchase, exchange, or~~  
23 ~~replacement of an annuity resulting from a recommendation, an~~  
24 ~~insurance producer, or an insurer if no producer is involved, shall~~  
25 ~~make reasonable efforts to obtain the consumer's suitability~~  
26 ~~information.~~

27 ~~(3) Except as permitted under subsection (4), an insurer shall~~  
28 ~~not issue an annuity recommended to a consumer unless there is a~~  
29 ~~reasonable basis to believe that the annuity is suitable based on~~



1 ~~the consumer's suitability information.~~ A producer, when making a  
 2 recommendation of an annuity, shall act in the best interest of the  
 3 consumer under the circumstances known at the time the  
 4 recommendation is made, without placing the producer's or the  
 5 insurer's financial interest ahead of the consumer's interest. A  
 6 producer is held to standards applicable to a producer with similar  
 7 authority and licensure. A producer has acted in the best interest  
 8 of the consumer if the producer has satisfied all of the following  
 9 obligations regarding care, disclosure, conflict of interest, and  
 10 documentation:

11 (a) Subject to subdivision (b), the producer, in making a  
 12 recommendation, shall exercise reasonable diligence, care, and  
 13 skill to do all of the following:

14 (i) Know the consumer's financial situation, insurance needs,  
 15 and financial objectives.

16 (ii) Understand the available recommendation options after  
 17 making a reasonable inquiry into options available to the producer.

18 (iii) Have a reasonable basis to believe the recommended option  
 19 effectively addresses the consumer's financial situation, insurance  
 20 needs, and financial objectives over the life of the product, as  
 21 evaluated in light of the consumer profile information.

22 (iv) Communicate the basis or bases of the recommendation.

23 (b) All of the following apply to the obligation of exercising  
 24 reasonable diligence, care, and skill under subdivision (a):

25 (i) To meet the obligations under subdivision (a), the producer  
 26 must do all of the following:

27 (A) Make reasonable efforts to obtain consumer profile  
 28 information from the consumer before the recommendation of an  
 29 annuity. The consumer profile information, characteristics of the



1 insurer, and product costs, rates, benefits, and features are those  
2 factors generally relevant in making a determination whether an  
3 annuity effectively addresses the consumer's financial situation,  
4 insurance needs, and financial objectives, but the level of  
5 importance of each factor under the care obligation of this  
6 subdivision may vary depending on the facts and circumstances of a  
7 particular case. However, each factor may not be considered in  
8 isolation.

9 (B) Consider the types of products the producer is authorized  
10 and licensed to recommend or sell that address the consumer's  
11 financial situation, insurance needs, and financial objectives.  
12 This sub-subparagraph does not require the producer to analyze or  
13 consider any products outside the authority and license of the  
14 producer or other possible alternative products or strategies  
15 available in the market at the time of the recommendation.

16 (C) Have a reasonable basis to believe the consumer would  
17 benefit from certain features of the annuity, such as  
18 annuitization, death or living benefit, or other insurance-related  
19 features.

20 (ii) The obligations under subdivision (a) apply to the  
21 particular annuity as a whole and the underlying subaccounts to  
22 which funds are allocated at the time of purchase or exchange of an  
23 annuity, and riders and similar product enhancements, if any.

24 (iii) The obligations under subdivision (a) do not require the  
25 producer to recommend the annuity with the lowest 1-time or  
26 multiple occurrence compensation structure.

27 (iv) The obligations under subdivision (a) do not mean the  
28 producer has ongoing monitoring obligations under the care  
29 obligation under subdivision (a), although the obligation may be



1 separately owed under the terms of a fiduciary, consulting,  
2 investment advising, or financial planning agreement between the  
3 consumer and the producer.

4 (c) For an exchange or replacement of an annuity, the producer  
5 shall consider the whole transaction, which includes taking into  
6 consideration all of the following:

7 (i) Whether the consumer will incur a surrender charge, be  
8 subject to the commencement of a new surrender period, lose  
9 existing benefits, such as death, living, or other contractual  
10 benefits, or be subject to increased fees, investment advisory  
11 fees, or charges for riders and similar product enhancements.

12 (ii) Whether the replacing product would substantially benefit  
13 the consumer in comparison to the replaced product over the life of  
14 the product.

15 (iii) Whether the consumer has had another annuity exchange or  
16 replacement and, in particular, an exchange or replacement within  
17 the preceding 60 months.

18 (d) Before the recommendation or sale of an annuity, the  
19 producer shall prominently disclose to the consumer on a form  
20 issued by the director all of the following information:

21 (i) A description of the scope and terms of the relationship  
22 with the consumer and the role of the producer in the transaction.

23 (ii) An affirmative statement on whether the producer is  
24 licensed and authorized to sell all of the following products:

- 25 (A) Fixed annuities.  
26 (B) Fixed indexed annuities.  
27 (C) Variable annuities.  
28 (D) Life insurance.  
29 (E) Mutual funds.



1 (F) Stocks and bonds.

2 (G) Certificates of deposit.

3 (iii) An affirmative statement describing the insurers the  
4 producer is authorized, contracted or appointed, or otherwise able  
5 to sell insurance products for, using any of the following  
6 descriptions:

7 (A) One insurer.

8 (B) From 2 or more insurers.

9 (C) From 2 or more insurers although primarily contracted with  
10 1 insurer.

11 (iv) A description of the sources and types of cash  
12 compensation and noncash compensation to be received by the  
13 producer, including whether the producer is to be compensated for  
14 the sale of a recommended annuity by commission as part of premium  
15 or other remuneration received from the insurer, intermediary, or  
16 other producer or by fee as a result of a contract for advice or  
17 consulting services.

18 (v) A notice of the consumer's right to request additional  
19 information regarding cash compensation described in subdivision  
20 (e).

21 (e) On request of the consumer or the consumer's designated  
22 representative, the producer shall disclose both of the following:

23 (i) A reasonable estimate of the amount of cash compensation to  
24 be received by the producer, which may be stated as a range of  
25 amounts or percentages.

26 (ii) Whether the cash compensation is a 1-time or multiple  
27 occurrence amount and, if a multiple occurrence amount, the  
28 frequency and amount of the occurrence, which may be stated as a  
29 range of amounts or percentages.



1 (f) Before or at the time of the recommendation or sale of an  
2 annuity, the producer must have a reasonable basis to believe the  
3 consumer has been informed of various features of the annuity, such  
4 as the potential surrender period and surrender charge, potential  
5 tax penalty if the consumer sells, exchanges, surrenders, or  
6 annuitizes the annuity, mortality and expense fees, investment  
7 advisory fees, any annual fees, potential charges for and features  
8 of riders or other options of the annuity, limitations on interest  
9 returns, potential changes in nonguaranteed elements of the  
10 annuity, insurance and investment components, and market risk.

11 (g) A producer shall identify and avoid or reasonably manage  
12 and disclose material conflicts of interest, including material  
13 conflicts of interest related to an ownership interest.

14 (h) A producer shall at the time of recommendation or sale do  
15 all of the following:

16 (i) Make a written record of any recommendation and the basis  
17 for the recommendation subject to this chapter.

18 (ii) Obtain a consumer signed statement on a form that  
19 documents both of the following:

20 (A) The consumer's refusal to provide the consumer profile  
21 information, if any.

22 (B) The consumer's understanding of the ramifications of not  
23 providing his or her consumer profile information or providing  
24 insufficient consumer profile information.

25 (iii) Obtain a consumer signed statement on a form acknowledging  
26 the annuity transaction is not recommended if a consumer decides to  
27 enter into an annuity transaction that is not based on the  
28 producer's recommendation.

29 (2) The requirements under subsection (1) do not create a



1 fiduciary obligation or relationship and create only a regulatory  
2 obligation as established under this chapter.

3 (3) Any requirement applicable to a producer under subsection  
4 (1) applies to each producer who has exercised material control or  
5 influence in the making of a recommendation and has received direct  
6 compensation as a result of the recommendation or sale, regardless  
7 of whether the producer has had any direct contact with the  
8 consumer. Activities such as providing or delivering marketing or  
9 educational materials, product wholesaling, or other back office  
10 product support, and general supervision of a producer do not, in  
11 and of themselves, constitute material control or influence.

12 ~~(4) An insurer's issuance of an annuity shall be reasonable~~  
13 ~~under all of the circumstances actually known to the insurer at the~~  
14 ~~time the annuity is issued. However, neither a~~ **Except as provided**  
15 **under subsection (5), a producer nor an insurer has does not have**  
16 any obligation to a consumer under subsection (1) ~~or (3)~~ related to  
17 any annuity transaction if any of the following apply:

18 (a) A recommendation is not made.

19 (b) A recommendation was made and was later found to have been  
20 prepared based on materially inaccurate information provided by the  
21 consumer.

22 (c) A consumer refuses to provide relevant ~~suitability~~  
23 **consumer profile** information and the annuity transaction is not  
24 recommended.

25 (d) A consumer decides to enter into an annuity transaction  
26 that is not based on a recommendation of the insurer or the  
27 insurance producer.

28 ~~(5) A producer or, if no producer is involved, the responsible~~  
29 ~~insurer representative, shall at the time of sale do all of the~~



1 following:

2 ~~(a) Make a record of any recommendation subject to subsection~~  
 3 ~~(1).~~

4 ~~(b) Obtain a customer signed statement documenting a~~  
 5 ~~customer's refusal to provide suitability information, if any.~~

6 ~~(c) Obtain a customer signed statement acknowledging that an~~  
 7 ~~annuity transaction is not recommended if a customer decides to~~  
 8 ~~enter into an annuity transaction that is not based on the~~  
 9 ~~producer's or insurer's recommendation.~~

10 (5) An insurer's issuance of an annuity subject to subsection  
 11 (4) must be reasonable under all the circumstances actually known  
 12 to the insurer at the time the annuity is issued.

13 (6) Except as permitted under subsections (4) and (5), an  
 14 insurer shall not issue an annuity recommended to a consumer unless  
 15 there is a reasonable basis to believe the annuity would  
 16 effectively address the particular consumer's financial situation,  
 17 insurance needs, and financial objectives based on the consumer's  
 18 consumer profile information.

19 Sec. 4158. (1) An insurer shall establish **and maintain** a  
 20 supervision system that is reasonably designed to achieve the  
 21 insurer's and its producers' compliance with this chapter,  
 22 including, but not limited to, all of the following:

23 (a) ~~Maintain~~ **Establish and maintain** reasonable procedures to  
 24 inform its producers of the requirements of this chapter and  
 25 incorporate the requirements of this chapter into relevant producer  
 26 training manuals.

27 (b) Establish **and maintain** standards for producer product  
 28 training and maintain reasonable procedures to require its  
 29 producers to comply with section 4160.



1 (c) Provide product-specific training and training materials  
2 that explain all material features of its annuity products to its  
3 producers.

4 (d) ~~Maintain~~ **Establish and maintain** procedures for review of  
5 each recommendation before issuance of an annuity that are designed  
6 to ensure ~~that~~ there is a reasonable basis to determine that a  
7 ~~recommendation is suitable.~~ **the recommended annuity would**  
8 **effectively address the particular consumer's financial situation,**  
9 **insurance needs, and financial objectives.** Review procedures may  
10 apply a screening system for the purpose of identifying selected  
11 transactions for additional review and may be accomplished  
12 electronically or through other means, including, but not limited  
13 to, physical review. An electronic or other system may be designed  
14 to require additional review only of those transactions identified  
15 for additional review by the selection criteria.

16 (e) ~~Maintain~~ **Establish and maintain** reasonable procedures to  
17 detect recommendations that are not ~~suitable.~~ **This in compliance**  
18 **with section 4155. These** may include, but ~~is~~ **are** not limited to,  
19 confirmation of ~~consumer suitability~~ **the consumer's profile**  
20 information, systematic ~~customer~~ **consumer** surveys, **producer and**  
21 **consumer** interviews, confirmation letters, **producer statements and**  
22 **attestations,** and programs of internal monitoring. This subdivision  
23 does not prevent an insurer from complying with this subdivision by  
24 applying sampling procedures or by confirming ~~suitability~~ **the**  
25 **consumer profile information or other required information under**  
26 **this section** after issuance or delivery of the annuity.

27 (f) **Establish and maintain reasonable procedures to assess,**  
28 **before or on issuance or delivery of an annuity, whether a producer**  
29 **has provided to the consumer the information required to be**



1 provided under section 4155.

2 (g) Establish and maintain reasonable procedures to identify  
3 and address suspicious consumer refusals to provide consumer  
4 profile information.

5 (h) Establish and maintain reasonable procedures to identify  
6 and eliminate any sales contests, sales quotas, bonuses, and  
7 noncash compensation that are based on the sales of specific  
8 annuities within a limited period of time. The requirements of this  
9 subdivision are not intended to prohibit the receipt of health  
10 insurance, office rent, office support, retirement benefits, or  
11 other employee benefits by employees if those benefits are not  
12 based on the volume of sales of a specific annuity within a limited  
13 period of time.

14 (i) ~~(f)~~ Annually provide a **written** report to senior  
15 management, including to the senior manager responsible for audit  
16 functions, that details a review, with appropriate testing,  
17 reasonably designed to determine the effectiveness of the  
18 supervision system, the exceptions found, and corrective action  
19 taken or recommended, if any.

20 (2) This section does not restrict an insurer from contracting  
21 for performance of a function, including maintenance of procedures,  
22 required under subsection (1). An insurer shall take appropriate  
23 corrective action and may be subject to sanctions and penalties  
24 under this act regardless of whether the insurer contracts for  
25 performance of a function and regardless of the insurer's  
26 compliance with subsection (3).

27 (3) An insurer's supervision system under this section ~~shall~~  
28 **must** include supervision of contractual performance. This includes,  
29 but is not limited to, the following:



1 (a) Monitoring and, as appropriate, conducting audits to  
2 assure that the contracted function is properly performed.

3 (b) Annually obtaining a certification from a senior manager  
4 who has responsibility for the contracted function that the manager  
5 has a reasonable basis to represent, and does represent, that the  
6 function is properly performed.

7 (4) An insurer is not required to include **either of the**  
8 **following** in its system of supervision: a

9 (a) A producer's recommendations to consumers of products  
10 other than the annuities offered by the insurer.

11 (b) **Consideration of or comparison to options available to the**  
12 **producer or compensation relating to those options other than**  
13 **annuities or other products offered by the insurer.**

14 Sec. 4159. A producer shall not dissuade, or attempt to  
15 dissuade, a consumer from any of the following:

16 (a) Truthfully responding to an insurer's request for  
17 confirmation of ~~suitability~~ **the consumer profile** information.

18 (b) Filing a complaint.

19 (c) Cooperating with the investigation of a complaint.

20 Sec. 4160. (1) A producer shall not solicit the sale of an  
21 annuity unless the producer has adequate knowledge of the product  
22 to recommend the annuity and the producer is in compliance with the  
23 insurer's standards for product training. A producer may rely on  
24 insurer-provided product-specific training standards and materials  
25 to comply with this subsection.

26 (2) A producer who engages in the sale of annuities shall  
27 complete a 1-time 4-credit training course approved by the  
28 ~~commissioner~~ **director** and provided by an insurance producer program  
29 of study registered under chapter 12. Insurance producers who hold



1 a life insurance line of authority on ~~the effective date of the~~  
 2 ~~amendatory act that added this section~~ **June 1, 2013** and who desire  
 3 to sell annuities shall complete the requirements of this  
 4 subsection ~~within 6 months after the effective date of the~~  
 5 ~~amendatory act that added this section.~~ **by December 1, 2013.**

6 Individuals who obtain a life insurance line of authority ~~on or~~  
 7 ~~after the effective date of the amendatory act that added this~~  
 8 ~~section~~ **May 31, 2013** shall not engage in the sale of annuities  
 9 until the annuity training course required under this subsection  
 10 has been completed.

11 (3) The minimum length of the training required under  
 12 subsection (2) ~~shall~~ **must** be not less than 4 hours, as defined in  
 13 section 1204c, and may be longer.

14 (4) The training required under subsection (2) ~~shall~~ **must**  
 15 include information on all of the following:

16 (a) The types of annuities and various classifications of  
 17 annuities.

18 (b) Identification of the parties to an annuity.

19 (c) How fixed, variable, and indexed annuity contract  
 20 provisions affect consumers.

21 (d) The income taxation of qualified and nonqualified  
 22 annuities.

23 (e) The primary uses of annuities.

24 (f) Appropriate **standard of conduct**, sales practices, and  
 25 replacement and disclosure requirements.

26 (5) Registered insurance producer programs of study ~~shall~~ **must**  
 27 cover all topics under subsection (4) and ~~shall~~ **must** not present  
 28 any marketing information or provide training on sales techniques  
 29 or provide specific information about a particular insurer's



1 products. Additional topics may be offered in conjunction with and  
2 in addition to the topics under subsection (4).

3 (6) A provider of an annuity training course intended to  
4 comply with this section shall register with the ~~commissioner~~  
5 **director** as a continuing education provider in this state and  
6 comply with any requirements of the ~~commissioner~~**director**  
7 applicable to insurance producer continuing education.

8 (7) **A producer who has completed an annuity training course**  
9 **approved by the director before the effective date of the 2020**  
10 **amendatory act that amended this section shall, within 6 months**  
11 **after the effective date of the 2020 amendatory act that amended**  
12 **this section, complete either of the following:**

13 (a) **A new 4-credit training course approved by the director**  
14 **after the effective date of the 2020 amendatory act that amended**  
15 **this section.**

16 (b) **An additional 1-time 1-credit training course approved by**  
17 **the director and provided by the department-approved education**  
18 **provider on appropriate sales practices, replacement, and**  
19 **disclosure requirements under this chapter.**

20 (8) ~~(7)~~ Annuity training courses may be conducted and  
21 completed by classroom or self-study methods in accordance with  
22 requirements of the ~~commissioner~~**director**.

23 (9) ~~(8)~~ Providers of annuity training shall comply with any  
24 reporting requirements imposed by the ~~commissioner~~**director** and  
25 shall issue certificates of completion in accordance with any  
26 requirements of the ~~commissioner~~**director**.

27 (10) ~~(9)~~ The satisfaction of the training requirements of  
28 another state that the ~~commissioner~~**director** determines to be  
29 substantially similar to this section satisfies the training



1 requirements of this section.

2       **(11) The satisfaction of the components of the training**  
 3 **requirements of any course or courses with components substantially**  
 4 **similar to this section satisfies the training requirements of this**  
 5 **section.**

6       **(12)** ~~(10)~~—An insurer shall verify that an insurance producer  
 7 has completed the annuity training course required under this  
 8 section before allowing the producer to sell an annuity for that  
 9 insurer. An insurer may satisfy its responsibility under this  
 10 section by obtaining certificates of completion of the training  
 11 course or obtaining reports provided by ~~commissioner-sponsored~~  
 12 **director-sponsored** database systems or vendors or from a reasonably  
 13 reliable commercial database vendor that has a reporting  
 14 arrangement with a registered insurance producer program of study.

15       Sec. 4165. (1) Subject to subsection (2), a **recommendation or**  
 16 sale made in compliance with ~~financial industry regulatory~~  
 17 ~~authority requirements pertaining to suitability and supervision of~~  
 18 ~~annuity transactions~~ **comparable standards** satisfies the  
 19 requirements of this chapter. This subsection applies to a  
 20 ~~financial industry regulatory authority broker-dealer sale of a~~  
 21 ~~variable annuity or fixed annuity if the suitability and~~  
 22 ~~supervision are similar to those applied to variable annuity sales.~~  
 23 **recommendation or sale of an annuity made by a financial**  
 24 **professional in compliance with business rules, controls, and**  
 25 **procedures that satisfy a comparable standard even if the standard**  
 26 **would not otherwise apply to the product or recommendation at**  
 27 **issue.** However, this subsection does not limit the ~~commissioner's~~  
 28 **director's** ability to **investigate and** enforce and ~~investigate~~ this  
 29 chapter.



1 (2) Subsection (1) applies if the insurer does both of the  
2 following:

3 (a) Monitors the ~~financial industry regulatory authority~~  
4 ~~member broker-dealer~~ **relevant conduct of the financial professional**  
5 **seeking to rely on subsection (1) or the entity responsible for**  
6 **supervising the financial professional, such as the financial**  
7 **professional's broker-dealer or an investment adviser registered**  
8 **under federal securities laws** using information collected in the  
9 normal course of the insurer's business.

10 (b) Provides to the ~~financial industry regulatory authority~~  
11 ~~member broker-dealer~~ **entity responsible for supervising the**  
12 **financial professional seeking to rely on subsection (1), such as**  
13 **the financial professional's broker-dealer or investment adviser**  
14 **registered under federal securities laws**, information and reports  
15 that are reasonably appropriate to assist the ~~financial industry~~  
16 ~~regulatory authority member broker-dealer~~ **entity** to maintain its  
17 supervision system.

18 (3) Subsection (1) does not limit an insurer's obligation to  
19 comply with section 4155(6). However, an insurer may base its  
20 analysis on information received from either the financial  
21 professional or the entity supervising the financial professional.

22 (4) As used in this section:

23 (a) "Comparable standards" means all of the following, as  
24 applicable:

25 (i) With respect to broker-dealers and registered  
26 representatives of broker-dealers, applicable United States  
27 Securities and Exchange Commission and Financial Industry  
28 Regulatory Authority rules pertaining to best interest obligations  
29 and supervision of annuity recommendations and sales, including,



1 but not limited to, Regulation Best Interest.

2 (ii) With respect to investment advisers registered under  
3 federal securities laws or investment adviser representatives, the  
4 fiduciary duties and all other requirements imposed on the  
5 investment advisers or investment adviser representatives by  
6 contract or under the Investment Advisers Act of 1940, including,  
7 but not limited to, the Form ADV.

8 (iii) With respect to plan fiduciaries or fiduciaries, the  
9 duties, obligations, prohibitions, and all other requirements  
10 attendant to such status under the employee retirement income  
11 security act of 1974, Public Law 93-406, or the internal revenue  
12 code of 1986, 26 USC 1 to 9834.

13 (b) "Financial professional" means a producer that is  
14 regulated and acting as any of the following:

15 (i) A broker-dealer registered under federal securities laws or  
16 a registered representative of a broker-dealer.

17 (ii) An investment adviser registered under federal securities  
18 laws or an investment adviser representative associated with the  
19 federal registered investment adviser.

20 (iii) A plan fiduciary under section 3(21) of the employee  
21 retirement income security act of 1974 or fiduciary under section  
22 4975(e)(3) of the internal revenue code of 1986, 26 USC 4975.

23 Sec. 4166. (1) An insurer is responsible for compliance with  
24 this chapter. If a violation occurs, either because of the action  
25 or inaction of the insurer or its producer, the director may order  
26 any of the following:

27 (a) The insurer to take reasonably appropriate corrective  
28 action for any consumer harmed by a failure to comply with this  
29 chapter by the insurer, an entity contracted to perform the



1 insurer's supervisory duties, or the producer.

2 (b) The producer to take reasonably appropriate corrective  
3 action for any consumer harmed by the producer's violation of this  
4 chapter.

5 (c) Appropriate sanctions.

6 (2) Any order under subsection (1) for a violation of this  
7 chapter may be reduced or eliminated by the director if corrective  
8 action for the consumer was taken promptly after a violation was  
9 discovered or the violation was not part of a pattern or practice.

10 Sec. 5228. (1) The stockholders or members of a corporation  
11 may adopt bylaws that they consider advisable. **Until September 30,**  
12 **2022, bylaws adopted under this subsection may provide 1 or both of**  
13 **the following:**

14 (a) One or more directors may participate in a regular or  
15 special meeting of the board, or a committee of the board, or  
16 conduct the meeting, by means of electronic communication devices  
17 that enable all participants in the meeting to communicate with  
18 each other. A director participating in a meeting allowed under  
19 this subdivision is deemed to be present in person at a meeting.

20 (b) Any meeting of the stockholders or members may be  
21 conducted by means of electronic communications devices by which  
22 all stockholders or members participating may simultaneously  
23 participate in the meeting. A stockholder or member participating  
24 in a meeting allowed under this subdivision is deemed to be present  
25 in person at a meeting.

26 (2) The directors of a domestic insurer may make bylaws, not  
27 inconsistent with the constitution and laws of this state, or with  
28 ~~their~~ **the insurer's** articles of incorporation, as they consider  
29 necessary for the government of the officers and members of the



1 insurer, and the conduct of its affairs. All bylaws and any  
 2 amendments ~~thereto shall to the bylaws must~~ be filed with the  
 3 ~~commissioner director of the department~~ before becoming operative.

4 (3) If bylaws adopted under subsection (1) need to be amended  
 5 to allow meetings through electronic communication devices  
 6 described in subsection (1), an amendment to the bylaws may be  
 7 adopted at a meeting conducted through electronic communication  
 8 devices described in subsection (1). This subsection does not apply  
 9 after September 30, 2022.

10 Sec. 5230. (1) ~~Special meetings~~ **A special meeting** of the  
 11 stockholders or members of a domestic stock or mutual insurer may  
 12 be called for purposes other than ~~those contemplated by sections~~  
 13 ~~5214 (amendment of articles of incorporation) amending articles of~~  
 14 **incorporation under section 5214** and **extending its corporate**  
 15 **existence under section 5222**, ~~(extension of corporate duration)~~, by  
 16 the directors at any time ~~when deemed~~ **they consider** advisable.

17 (2) Notice of ~~all meetings~~ **a meeting** of the members or  
 18 stockholders ~~shall~~ **must** be given by mailing to each member or  
 19 stockholder a copy of ~~such the~~ notice, postage prepaid, directed to  
 20 his **or her** last known post office address at least 21 days ~~prior to~~  
 21 **before** the time fixed for ~~such the~~ meeting. ~~, and such~~ **The** notice  
 22 ~~shall~~ **must** state the time and place, and if ~~it be a~~ **the meeting is**  
 23 **a special meeting**, the purpose of ~~such the~~ **special** meeting. ÷  
 24 ~~Provided, That notice~~ **However, notice** of the time and place of the  
 25 annual meeting of a mutual insurer may be printed on the policy or  
 26 certificate of renewal ~~in lieu~~ **instead** of mailing as required ~~in~~  
 27 ~~this section,~~ **under this subsection**, in which case ~~such the~~ notice  
 28 ~~shall~~ **must** also be printed with the annual statement of ~~such the~~  
 29 insurer.



1           (3) A meeting of the stockholders or members may be conducted  
 2 by means of electronic communications devices by which all  
 3 stockholders or members participating may simultaneously  
 4 participate in the meeting. A stockholder or member participating  
 5 in a meeting allowed under this subsection is deemed to be present  
 6 in person at a meeting. This subsection does not apply after  
 7 September 30, 2022.

8           Sec. 5245. (1) A majority of the board of directors  
 9 constitutes a quorum for the transaction of business, and the acts  
 10 of a majority of the directors present at a meeting at which a  
 11 quorum is present ~~shall be~~ **are** the acts of the board of directors.

12           (2) ~~Upon~~ **On** written notice of the time and place and purpose  
 13 or purposes of any special meeting, any of the directors, in-  
 14 between regular meetings of the board of directors, may consent in  
 15 writing to any specific action to be taken by the corporation, and  
 16 if approved by a majority of the directors at the special meeting,  
 17 including those consenting in writing, the action ~~shall be~~ **is** as  
 18 valid a corporation action as though authorized at a regular  
 19 meeting of the directors. The minutes of approval and action ~~shall~~  
 20 **must** be fully recorded, each written consent ~~shall~~ **must** be made a  
 21 part ~~thereof,~~ **of the minutes**, and the minutes and written consent  
 22 ~~shall~~ **must** be reviewed at the next regular meeting of the board of  
 23 directors.

24           (3) Unless prohibited by the articles of incorporation or  
 25 bylaws, action required or permitted to be taken under  
 26 authorization voted at a meeting of the board or a committee of the  
 27 board may be taken without a meeting if, before or after the  
 28 action, all members of the board then in office or of the committee  
 29 consent to the action in writing or by electronic transmission. The



1 written consents ~~shall~~**must** be filed with the minutes of the  
2 proceedings of the board or committee. The consent has the same  
3 effect as a vote of the board or committee for all purposes.

4 **(4) The board of directors may permit 1 or more directors to**  
5 **participate in a regular or special meeting of the board, or a**  
6 **committee of the board, or conduct the meeting, by means of**  
7 **electronic communication devices that enable all participants in**  
8 **the meeting to communicate with each other. A director**  
9 **participating in a meeting under this subsection is deemed to be**  
10 **present in person at the meeting. This subsection does not apply**  
11 **after September 30, 2022.**

12 Enacting section 1. Sections 4151, 4153, 4155, 4158, 4159,  
13 4160, and 4165 of the insurance code of 1956, 1956 PA 218, MCL  
14 500.4151, 500.4153, 500.4155, 500.4158, 500.4159, 500.4160, and  
15 500.4165, as amended by this amendatory act, take effect 6 months  
16 after the date it is enacted into law.

17 Enacting section 2. Section 4166 of the insurance code of  
18 1956, 1956 PA 218, as added by this amendatory act, takes effect 6  
19 months after the date it is enacted into law.

